IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6856 of 1994

For Approval and Signature:

HON'BLE MR.JUSTICE A.S.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PRASHANT LAXMANRAO SADEKA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 6856 of 1994

MR BHARAT BELSARE for Petitioner No. 1

Mr. Kunjal Pandya, AGP for Respondent No. 1,4

MR SK PATEL for Respondent No. 2

RULE SERVED for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE A.S.DAVE

Date of decision: 14/10/2004

ORAL JUDGEMENT

1. The petitioner has approached this Court under Article 226 of the Constitution of India with a prayer and direction to the Gujarat Public Service Commission to declare the examination for the post of Lecturer in Mathematics, Class II, held by it in August 1993, to be illegal and further to direct the respondents to hold the examination afresh.

2. Today, when the matter was called out on the second occasion also, the learned advocate for the petitioner is not present. The record of the petition shows that, on earlier occasion also, he remained absent.

3. By order dated 5th December 1994, this Court issued Rule making it returnable within two weeks and the service of the petitioner was protected till a regular candidate is appointed.

4. The relief prayed for by the petitioner for direction to the Gujarat Public Service Commission to hold examination for the post of Lecturer in Mathematics, Class II, afresh, cannot be granted in as much as the Gujarat Public Service Commission constituted under the Statute and being an autonomous body, cannot be subjected to the direction of this Court more particularly when no averments of mala fide or otherwise are made in the petition. About ten years have passed and the petitioner has not bothered even to remain present in the Court. The questions which were put at the time of interview, according to the petitioner, were not relevant and, the relevance and importance of such question, according to the petitioner, was not germane to the subject matter of the interview.

5. It is not for this Court under Article 226 of the Constitution of India to look into the modality of the interview and its relevance. The attitude and aptitude can be adjudged by the experts interviewing the candidates and, therefore, it cannot be said that the decision of the Gujarat Public Service Commission is unreasonable or arbitrary. Therefore, the prayer of the petitioner for a direction to the Gujarat Public Service Commission to hold examination for the post of Lecturer in Mathematics, Class II, afresh, cannot be accepted and the petition is required to be rejected and it is rejected. Rule is discharged with no order as to costs. The interim relief stands vacated.

(Anant S. Dave, J.)

(swamy)